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INTERSTATE COMMERCE COMMISSION

LEASE OF RAILROAD EQUIPMENT

between

THE INDIANA NATIONAL BANK,

Owner Trustee

THE INDIANA NATIONAL BANK,

Lessee Trustee

Dated as of December 18, 1972

[Covering 3 locomotives]

LEASE OF RAILROAD EQUIPMENT

LEASE OF RAILROAD EQUIPMENT dated as of December 18, 1972, between THE INDIANA NATIONAL BANK, as Trustee under an Owner Trust Agreement dated as of December 18, 1972, STEAK n SHAKE, INC., as beneficiary (said Trustee acting in such capacity being hereinafter called the Lessor in this Agreement and said beneficiary being hereinafter called the Owner Beneficiary in this Agreement), and THE INDIANA NATIONAL BANK, as Trustee under a Lessee Trust Agreement dated as of December 18, 1972, with INDIANA NATIONAL LEASING, INC., as beneficiary (said Trustee acting in such capacity being hereinafter called the Lessee in this Agreement).

WHEREAS, The Indianapolis Union Railway Company ("Sublessee") has heretofore entered into a Purchase Agreement No. IU-8015, dated August 21, 1972, with General Motors Corporation (Electro-Motive Division) ("Manufacturer"), which Purchase Agreement has been assigned to Lessor pursuant to an Assignment of Purchase Agreement dated as of December 18, 1972, ("Assignment") consented to by Manufacturer, under which Purchase Agreement and Assignment Manufacturer has agreed to manufacture, sell and deliver to Lessor the units of railroad equipment described in Schedule A hereto (such units being hereinafter called the ("Equipment"));

WHEREAS, the Lessor proposes to grant and transfer a security interest in the Equipment pursuant to a Security Agreement Covering Railroad Equipment (hereinafter called the "Security Agreement"), dated as of December 18, 1972, to The Indiana National Bank (hereinafter referred to as the "Lender");

WHEREAS, the Lessee desires to lease all the units of said railroad equipment at the rentals and for the term and upon the conditions hereinafter provided;

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Lessor hereby leases the Equipment to the Lessee upon the following terms and conditions, but, upon default of the Lessee hereunder, subject to all the rights and remedies of the Lender under the Security Agreement:

THE HISTORY OF THE UNITED STATES

The history of the United States is a story of growth and change. It begins with the first people who lived on this land, and continues through the years of exploration, settlement, and the struggle for independence. The story is one of a people who have built a great nation from a small group of pioneers. The history of the United States is a story of the triumph of the human spirit over adversity. It is a story of the courage and determination of a people who have fought for freedom and justice. The history of the United States is a story of the power of the American dream. It is a story of the hope and aspiration of a people who have built a great nation from a small group of pioneers. The history of the United States is a story of the triumph of the human spirit over adversity. It is a story of the courage and determination of a people who have fought for freedom and justice. The history of the United States is a story of the power of the American dream. It is a story of the hope and aspiration of a people who have built a great nation from a small group of pioneers.

by the Lender to satisfy the obligations of the Lessor under the Note and Security Agreement accrued at the time such payments are due hereunder and, so long as no default under the Note and Security Agreement shall have occurred and be continuing, any balance shall be paid to the Lessor.

This Lease is a net lease and the Lessee shall not be entitled to any abatement of rent, reduction thereof or setoff against rent, including, but not limited to, abatements, reductions or setoffs due or alleged to be due to, or by reason of, any past, present or future claims of the Lessee against the Lessor under this Lease or the Manufacturer or the Lender or otherwise; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use of or destruction of all or any of the Equipment from whatsoever cause, the prohibition of or other restriction against use of all or any of the Equipment by the Lessee or any other person, the interference with such use by any private person or entity, the invalidity or unenforceability or lack of due authorization of this Lease, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease.

§3. TERM OF LEASE. The term of this Lease shall begin on the date of the delivery to and acceptance by the Lessee of the Equipment and, subject to the provisions of §§6, 9 and 12 hereof, shall terminate on the date on which the final semiannual payment of rent in respect thereof is due hereunder.

Notwithstanding anything to the contrary contained herein, all rights and obligations under this Lease and in and to the Equipment, upon default by the Lessee hereunder, are subordinate, junior in rank and subject to the rights of the Lender under the Note and Security Agreement.

§4. IDENTIFICATION MARKS. The Lessee will cause each unit of the Equipment to be kept numbered with the identifying number set forth in Schedule A hereto and will keep and maintain, plainly, distinctly, permanently and conspicuously

marked on each side of the Equipment, in letters not less than one inch in height, the following words:

THE INDIANA NATIONAL BANK,
SECURITY OWNER

or other appropriate words designated by the Lessor, with appropriate changes therein and additions thereto as from time to time may be required by law in order to protect the title of the Lessor or the Lender to the Equipment and the rights of the Lessor under this Lease and of the Lender under the Security Agreement. The Lessee will not place any of the Equipment in operation or exercise any control or dominion over the same until such names and word or words shall have been so marked on both sides thereof and will replace promptly any such names and word or words which may be removed, defaced or destroyed. The Lessee will not change the identifying number of any of the Equipment except in accordance with a statement of new identifying numbers to be substituted therefor, which statement previously shall have been filed with the Lender and the Lessor by the Lessee and filed, or recorded in all public offices where this Lease will have been filed or recorded.

Except as above provided, the Lessee will not allow the name of any person, association or corporation to be placed on the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Lessee may cause the Equipment to be lettered with the names or initials or other insignia customarily used by the Lessee or the Sublessee, or its affiliates on railroad equipment used by them of the same or a similar type for convenience of identification of their rights to use the Equipment as permitted under this Lease, or a Sublease of Railroad Equipment dated as of December 18, 1972, between the Lessee and the Sublessee ("Sublease").

§5. TAXES. All payments to be made by the Lessee hereunder will be free of expense to the Lessor for collection or other charges and will be free of expense to the Lessor with respect to the amount of any local, state or United States taxes (other than any United States income tax and other than the aggregate of all state or city income taxes or franchise taxes payable to any United States jurisdiction measured by net income based on such receipts up to the amount of any such taxes which would be payable to the state and local taking jurisdictions in which the Lessor has its principal place of business if such receipts were not apportionable to any other state), assessments, duties or license fees, and any charges, fines or penalties in connection therewith (all such expenses,

taxes, assessments, duties, license fees, charges, fines and penalties being hereinafter called impositions), hereafter levied or imposed upon or in connection with or measured by this Lease or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof or the Purchase Agreement and the Assignment, all of which impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. The Lessee will also pay promptly all impositions which may be imposed upon the Equipment or for the use or operation thereof or upon the Lessee's earnings arising therefrom or upon the Lessor solely by reason of its ownership thereof and will keep at all times all and every part of the Equipment free and clear of all impositions which might in any way affect the title of the Lessor or result in a lien upon such Equipment; provided, however, that the Lessee shall be under no obligation to pay any impositions so long as it is contesting in good faith and by appropriate legal proceedings such impositions and the nonpayment thereof does not, in the opinion of the Lessor, adversely affect the property or rights of the Lessor hereunder. If any impositions shall have been charged or levied against the Lessor directly and paid by the Lessor, the Lessee shall reimburse the Lessor on presentation of invoice therefor; provided, however, that the Lessee shall not be obligated to reimburse the Lessor for any impositions so paid unless the Lessor shall have been legally liable with respect thereto (as evidenced by an opinion of counsel for the Lessor) or unless the Lessee shall have approved the payment thereof.

In the event that the Lessor shall become obligated to make any payment for impositions, as the same are defined under paragraph 1 of this §5, to the Manufacturer or the Lender pursuant to the Purchase Agreement and Assignment or the Security Agreement not covered by the foregoing paragraph of this §5, the Lessee shall pay such additional amounts (which shall also be deemed impositions hereunder) to the Lessor as will enable the Lessor to fulfill completely its obligations to the Manufacturer and the Lender pursuant to said agreements.

In the event any reports with respect to impositions are required to be made, the Lessee will either make such reports in such manner as to show the interests of the Lessor and the Lender in the Equipment or notify the Lessor and the Lender of such requirement and will make such reports in such manner as shall be satisfactory to the Lessor and the Lender.

In the event that, during the continuance of this Lease, the Lessee becomes liable for the payment or reimbursement of any impositions pursuant to this §5, such liability shall continue, notwithstanding the expiration of this Lease, until all such impositions are paid or reimbursed by the Lessee.

§6. PAYMENT FOR CASUALTY OCCURRENCES. In the event that any of the Equipment shall be or become worn out, lost, stolen, destroyed, irreparably damaged or damaged beyond economic repair, from any cause whatsoever or taken or requisitioned by condemnation or otherwise (such occurrences being hereinafter called Casualty Occurrences) during the term of this Lease, the Lessee shall promptly after it shall have determined that the Equipment has suffered a Casualty Occurrence, fully inform the Lessor and the Lender in regard thereto. On the next succeeding rental payment date in respect of the Equipment, the Lessee shall pay to the Lessor an amount equal to the accrued rental for such unit of the Equipment to the date of such payment plus a sum equal to the Casualty Value, as hereinafter defined, of such unit of the Equipment as of the date of such payment in accordance with the schedule set out below. Upon the making of such payment by the Lessee in respect of any unit of the Equipment, the rental for such unit of the Equipment shall cease to accrue as of the date of such payment, the term of this Lease as to such unit of the Equipment shall terminate and the Lessee shall be entitled to recover possession of such unit of the Equipment. The Lessor shall, upon request of the Lessee, after payment by the Lessee of a sum equal to the Casualty Value of any unit of the Equipment execute and deliver to or upon the order of the Lessee a bill of sale (without warranties) for such unit of the Equipment.

The Casualty Value of each unit of the Equipment as of any rental payment date in respect of such unit of the Equipment shall be that percentage of the Purchase Price applicable to such unit of the Equipment set forth in the schedule set out below opposite the number of such rental payment date:

<u>Payment No.</u>	<u>Percentage</u>	<u>Payment No.</u>	<u>Percentage</u>
1.....	99.99259%	16.....	63.66875%
2.....	98.6908	17.....	60.36452
3.....	97.79332	18.....	56.97638
4.....	97.15947	19.....	53.48496
5.....	96.66758	20.....	49.84635
6.....	96.21959	21.....	46.15527
7.....	91.16423	22.....	41.79875
8.....	90.59450	23.....	38.3019
9.....	89.89858	24.....	34.15519
10.....	88.9815	25.....	29.8531
11.....	83.29607	26.....	25.38003
12.....	80.80212	27.....	20.72981
13.....	77.73474	28.....	15.88587
14.....	74.62751	29.....	10.836
15.....	66.89011	30.....	5.7255
		31.....	5.0

Except as hereinabove in this §6 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any unit of the Equipment after delivery to and acceptance thereof by the Lessee hereunder.

The Lessee shall, at its own cost and expense, insure each locomotive from the time of delivery and at all times thereafter until Lessee's obligations under this Lease with respect to such locomotives have been discharged, against loss, damage or destruction thereto caused by fire, lightning, wreck, derailment, collision, flood, tornado, cyclone, sabotage, riot or civil commotion, such insurance, in the case of each locomotive, to be in an amount satisfactory to Lessor, except that such coverage may be limited so that no loss amounting to less than \$25,000.00 on each locomotive shall be payable. In addition, Lessee shall, at its own cost and expense, carry public liability insurance in such amounts as may be reasonably requested by Lessor which insurance shall name Lessor and the Beneficiary as additional insureds. All such insurance shall be payable to the Lender, the Lessor and the Lessee as their interests may appear to the extent that the Lessee is permitted to do so under such policies of insurance. All insurance proceeds received by the Lessor shall be paid over to the Lessee if the Lessee has fully complied with all of its obligations and indemnifications in respect of the risk insured against for which such proceeds were paid by the insurance company. Any net insurance proceeds as the result of insurance carried by the Lessee or proceeds of payments from any governmental agency as compensation for requisition by condemnation received by the Lessor in respect of Equipment suffering a Casualty Occurrence shall be deducted from the amounts payable by the Lessee to the Lessor in respect of Casualty Occurrences pursuant to this §6. If the Lessor shall receive any such net insurance proceeds or any such condemnation payments after the Lessee shall have made payments pursuant to this §6 without deduction for such net insurance proceeds or such condemnation payments, the Lessor shall pay such proceeds to the Lessee up to an amount equal to the Casualty Value with respect to a unit of the Equipment paid by the Lessee and any balance of such proceeds shall remain the property of the Lessor.

§7. ANNUAL REPORTS. On or before March 31 in each year commencing with the year 1974, the Lessee will cause to be furnished to the Lessor and the Lender in such number of counterparts or copies as may reasonably be requested an accurate statement, as of the preceding January 1, (a) showing the amount, description and number of the Equipment then leased hereunder, the amount, description and number of all units of the Equipment that may have suffered a Casualty Occurrence during the preceding 12 months (or since the date of this Lease, in the case

of the first such statement), and such other information regarding the condition and state of repair of the Equipment as the Lessor or the Lender may reasonably request and (b) stating that, in the case of all units of the Equipment repainted during the period covered by such statement, the markings required by §4 hereof and Section 2 of the Security Agreement shall have been preserved or replaced. The Lessor shall have the right at its sole cost and expense, by its authorized representatives, to inspect the Equipment and the Lessee's records with respect thereto, at such times as shall be reasonably necessary to confirm to the Lessor the existence and proper maintenance thereof during the continuance of this Lease. The Lessee shall not be liable, except in the case of negligence of the Lessee or its employees or agents, for any injury to, or death of, any person exercising on behalf of Lessor the right of inspection granted under this section.

§8. DISCLAIMER OF WARRANTIES; LESSOR'S REPRESENTATION AND WARRANTIES; COMPLIANCE WITH LAWS AND RULES; MAINTENANCE; AND INDEMNIFICATION. THE LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE EQUIPMENT DELIVERED TO THE LESSEE HEREUNDER, AND THE LESSOR MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE EQUIPMENT FOR ANY PARTICULAR PURPOSE, it being agreed that all such risks, as between the Lessor and the Lessee, are to be borne by the Lessee; but the Lessor hereby irrevocably appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name and for the account of the Lessor and/or the Lessee, as their interests may appear, whatever claims and rights the Lessor may have, as Assignee under the Purchase Agreement. Lessee's acceptance of delivery of the Equipment shall be conclusive evidence as between the Lessee and the Lessor that the Equipment described in the Certificate of Delivery are in all the foregoing respects satisfactory to the Lessee and the Lessee will not assert any claim of any nature whatsoever against the Lessor based on any of the foregoing matters.

The Lessor represents and warrants as follows:

(i) At the time of delivery of the Equipment under this Lease, the Lessor shall have such title to the Equipment as is derived from the Manufacturer, unimpaired by any act or omission of the Lessor which will in any manner prevent the performance of this Lease in accordance with its terms and, in addition, the Equipment shall be free and clear of all claims, liens and encumbrances which may result from claims against the Lessor not arising out of the ownership thereof or the Security

Agreement which will prevent the performance of this Lease in accordance with its terms; and

(ii) So long as the Lessee shall not be in default under this Lease, the Lessor shall not do (or suffer to be done by any person claiming through or against the Lessor and not against the Lessee or any sublessee) any act which interferes with any all rights of the Lessee to peaceably and quietly hold, possess and use the Equipment in accordance with the terms of this Lease.

The Lessor covenants that any sale, assignment, transfer, mortgage or other disposition which it may make of this Lease or of the Equipment, whether prior or subsequent to delivery to the Lessee, shall be expressly subject to the terms and provisions of this Lease and of the Sublease; provided, however, that this Lease and the Sublease shall be subordinated to the rights of the Lender under the Security Agreement but neither the Lessor nor the Lender shall have the right to terminate or impair the Lessee's possession or use of the property subject to this Lease nor to terminate or impair the Sublessee's possession or use of the property subject to the Sublease so long as the Lessee shall not be in default under this Lease and the Sublessee shall not be in default under the Sublease; and, subject to the foregoing, covenants that the Lessor has not done and will not do (or suffer to be done by any person claiming through or against the Lessor) any act which interferes with or impairs (x) the Lessee's possession and use in accordance with the terms of this Lease of the Equipment or (y) the Sublessee's possession and use in accordance with the terms of the Sublease or (z) the title to the Equipment which may be transferred or conveyed to the Lessee under the provisions of §§6 and 12 of this Lease and that any title so conveyed shall then be free of any lien, claim and encumbrance of the Lender.

The Lessor covenants and agrees not to alter, amend or modify the Security Agreement without the prior written consent of the Lessee.

The Lessee agrees, for the benefit of the Lessor and the Lender, to comply in all respects with all laws of the jurisdictions in which the Equipment may be operated, and with all lawful rules of all legislative, executive, administrative or judicial bodies exercising any power or jurisdiction over the Equipment; and in the event that such laws or rules require alteration of the Equipment, the Lessee will conform therewith at its own expense and will maintain the same in proper condition for operation under such laws and rules; provided, however, that the Lessee may, in good faith, contest the validity or appli-

cation of any such law or rule in any reasonable manner which does not, in the opinion of the Lessor or the Lender, adversely affect the property or rights of the Lessor or the Lender hereunder or under the Security Agreement.

The Lessee agrees that, at its own cost and expense, it will maintain and keep each unit of the Equipment which is subject to this Lease in good order and repair, reasonable wear and tear excepted.

Any and all additions to the Equipment and any and all replacements of any unit of the Equipment and of parts thereof shall constitute accessions to the Equipment (except such as can be removed without damage to and without impairing the originally intended function or use of the Equipment, and which have been added by the Lessee and are not included in the Purchase Price of the Equipment, and are not required for the normal operation or use of the Equipment, [hereinafter called Temporary Additions]), and at the cost and expense of the Lessee, full ownership thereof free of any lien, charge, security interest or encumbrance (except for those created by the Security Agreement) shall immediately be vested in the Lessor and the Lender as their respective interests appear in the Equipment itself. Upon termination of this Lease, the Lessee will remove the Temporary Additions from the Equipment and restore the Equipment to satisfactory operating condition and to their original physical condition at the time of delivery thereof to the Lessee hereunder, reasonable wear and tear excepted.

The Lessee agrees to indemnify and save harmless the Lessor the Owner Beneficiary and the Lender against any charge or claim made against any of them, and against any expense, loss or liability (including but not limited to counsel fees and expenses, patent liabilities, penalties and interest) which any of them may incur in any manner by reason of entering into or the performance of the Assignment, the Security Agreement or this Lease or by reason of the ownership of the Equipment, or which may arise in any manner out of or as the result of the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of the Equipment under this Lease. The Lessee further agrees to indemnify and save harmless the Lessor, the Owner Beneficiary and the Lender against any charge, claim, expense, loss or liability on account of any accident in connection with the operation, use, condition, possession or storage of the Equipment resulting in damage to property or injury to any person. The indemnities arising under this paragraph shall survive payment of all other obligations under this Lease or the termination of this Lease. Anything herein to the contrary notwithstanding, the Lessee shall not be obligated to indemnify under this paragraph in respect of any charge, claim, expense, loss or liability attributable to a unit of the Equipment which, and to an event occurring after the Equipment, shall have been returned to the

Lessor (unless at the time the Equipment is in the possession of or being stored by the Lessee) pursuant to §§10 or 13 hereof; provided, however, that such charge, claim, expense, loss or liability does not arise as a result of mechanical defects of the Equipment which existed at the time the Equipment was so returned.

The Lessee agrees to prepare and deliver to the Lessor within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Lessor) any and all reports to be filed by the Lessor with any federal, state or other regulatory authority by reason of the ownership by the Lessor of the Equipment or the leasing thereof to the Lessee.

§9. DEFAULT. If, during the continuance of this Lease, one or more of the following events (hereinafter sometimes called Events of Default) shall occur:

A. default shall be made in the payment of any part of the rental provided in §2 hereof and such default shall continue for 10 days;

B. the Lessee shall make or permit any unauthorized assignment or transfer (other than pursuant to the Sublease) of this Lease or of possession of the Equipment, or any thereof;

C. default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein and such default shall continue for 25 days after written notice from the Lessor specifying the default and demanding that the same be remedied;

D. any proceedings shall be commenced by or against the Lessee or the Sublessee for any relief under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the obligations of the Lessee hereunder or the Sublessee under the Sublease) and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue),

all the obligations of the Lessee under this Lease or of the Sublessee under the Sublease shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed for the Lessee or the Sublessee or for the property of the Lessee or the Sublessee in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceeding shall have been commenced, whichever shall be earlier;

then, in any such case, the Lessor, at its option may:

(a) proceed by appropriate court action or actions either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof; or

(b) by notice in writing to the Lessee and the Sublessee terminate this Lease and the Sublease, whereupon all rights of the Lessee and the Sublessee to the use of the Equipment shall absolutely cease and terminate as though this Lease and the Sublease, had never been made, but the Lessee shall remain liable as hereinafter provided; and thereupon the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Equipment may be and take possession of all or any of such Equipment and thenceforth hold, possess and enjoy the same free from any right of the Lessee, the Sublessee, or their successors or assigns, to use the Equipment for any purposes whatever; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee (i) as damages for loss of the bargain and not as

a penalty, a sum, with respect to each unit of the Equipment, which represents the excess of (x) the present value, at the time of such termination, of the entire unpaid balance of all rentals for such unit of the Equipment which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such unit of the Equipment over (y) the then present value of the rentals which the Lessor reasonably estimates to be obtainable for the use of the Equipment during such period, such present value to be computed in each case on a basis of 7-1/2% per annum discount, compounded semiannually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, (ii) any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant or covenants of this Lease other than for the payment of rental, and (iii) an amount which, after deduction of all taxes required to be paid by the Lessor in respect of the receipt thereof under the laws of the United States or any political subdivision thereof, shall be equal to such sum as, in the reasonable opinion of the Lessor, will cause the Lessor's net return under this Lease to be equal to the net return that would have been available to the Lessor if it had been entitled to utilization of all or such portion of the depreciation deductions available to non-railroad lessors of railroad equipment which was lost, not claimed, not available for claim or disallowed in respect of any unit of the Equipment as a result of the termination of this Lease, the Lessee's loss of the right to use such Equipment, or the sale or other disposition of the Lessor's interest in the Equipment after the occurrence of an Event of Default.

The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided, to the extent that such waiver is permitted by law. The Lessee hereby waives any and all existing or future claims to any offset against the rental payments due hereunder, and agrees to make rental payments

regardless of any offset or claim which may be asserted by the Lessee or on its behalf.

The failure of the Lessor to exercise the rights granted it hereunder upon the occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

§10. RETURN OF EQUIPMENT UPON DEFAULT. If this Lease shall terminate pursuant to §9 hereof, the Lessee shall forthwith deliver possession of the Equipment to the Lessor. For the purpose of delivering possession of the Equipment to the Lessor as above required, the Lessee shall at its own cost, expense and risk:

A. forthwith place the Equipment upon such storage tracks to which the Lessee shall have access at the time as the Lessor reasonably may designate,

B. permit the Lessor to store the Equipment on such tracks as the Lessee shall have access to at the time at the risk of the Lessee until all the Equipment has been sold, leased or otherwise disposed of by the Lessor, and

C. transport the same to any place on tracks to which the Lessee shall have access at the time for shipment, all as directed by the Lessor.

The assembling, delivery, storage and transporting of the Equipment as hereinbefore provided shall be at the expense and risk of the Lessee and are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Equipment. During any storage period, the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any of the Equipment to inspect the same; provided, however, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this §10, the Lessee hereby irrevocably appoints the Lessor as its agent and attorney, with full power and authority, at any time while the Lessee is obligated to deliver possession of the Equipment to the Lessor, to demand and take possession of the Equipment in the name and on behalf of the Lessee from whomsoever shall be at the time in possession of the Equipment.

§11. ASSIGNMENT; POSSESSION AND USE. This Lease shall be assignable in whole or in part by the Lessor without the consent of the Lessee, but the Lessee shall be under no obligation to any assignee of the Lessor except upon written notice of such assignment from the Lessor. All the rights of the Lessor hereunder (including, but not limited to, the rights under §§5, 9 and 15 of this Lease) shall inure to the benefit of the Owner Beneficiary and the Lessor's assigns. Whenever the term Lessor is used in this Lease it shall apply and refer to the Owner Beneficiary and any assignee of the Lessor and, where the context so requires (including, but not limited to, certain of the provisions of §§9 and 15 of this Lease), shall refer only to the Owner Beneficiary.

So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession and use of the Equipment in accordance with the terms of this Lease, but, without the prior written consent of the Lessor, except for the Sublease to the Sublessee, the Lessee shall not assign or transfer its leasehold interest under this Lease in the Equipment or any of them. In addition, the Lessee, at its own expense, will promptly cause to be duly discharged any lien, charge, security interest or other encumbrance (other than an encumbrance resulting from claims against the Lessor or the Lender not related to the ownership of the Equipment or the Sublease) which may at any time be imposed on or with respect to the Equipment including any accession thereto or the interests of the Lessor, the Lender or the Lessee therein. The Lessee shall not, without the prior written consent of the Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Equipment, except that the Lessee is hereby specifically authorized to enter into the Sublease with the Sublessee.

So long as the Lessee shall not be in default under this Lease, or the Sublessee under the Sublease, the Lessee shall be entitled to the possession of the Equipment and to the use thereof by it upon lines of railroad to which it has access or other operating rights or over which railroad equipment of the Lessee, if any, is regularly operated pursuant to contract, but only upon and subject to all the terms and conditions of this Lease and the Security Agreement; provided, however, that

the Lessee shall not assign or permit the assignment of any unit of the Equipment to service involving the regular operation and maintenance thereof outside the United States of America. The Lessee may receive and retain compensation for such use from railroads so using any of the Equipment.

§12. PURCHASE OR RENEWAL OPTION. Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may, by written notice delivered to the Lessor not less than four months prior to the end of the original term or any extended term of this Lease, as the case may be, elect (i) to extend the term of this Lease in respect of all, but not fewer than all, units of the Equipment for successive periods of five years commencing on the scheduled expiration date of the term of lease of the Equipment, provided that no such extended term shall extend beyond December 30, 1997, at a rental payable in semiannual payments, in an amount equal to the "Fair Market Rental"; and (ii) to purchase all, but not fewer than all, of the units of the Equipment at the end of the respective original or extended terms of lease at a price equal to the respective "Fair Market Value" of the Equipment as of the end of such terms.

Fair Market Value or Fair Market Rental shall be determined on the basis of, and shall be equal in amount to, the value or rental which would obtain in an arm's length transaction, for Equipment in good order and repair, between an informed and willing buyer-user or lessee, as the case may be, (other than (i) a lessee currently in possession and (ii) a used equipment dealer) and an informed and willing seller or lessor, as the case may be, under no compulsion to sell or lease and, in such determination, costs of removal from the location of current use shall not be a deduction from such value. If the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Value or the Fair Market Rental of the Equipment, such value shall be determined in accordance with the foregoing definition by a qualified independent Appraiser. The term "Appraiser" shall mean such independent appraiser as the Lessor and the Lessee may mutually agree upon, or failing such agreement, a panel of three independent appraisers, one of whom shall be selected by the Lessor, the second by the Lessee and the third designated by the first two so selected. The Appraiser shall be instructed to make such determination within a period of 30 days following appointment, and shall promptly communicate such determination in writing to the Lessor and the Lessee. The determination so made shall be conclusively binding upon both Lessor and Lessee. The expenses and fee of the Appraiser shall be borne equally by the Lessee and the Lessor.

§13. RETURN OF EQUIPMENT UPON EXPIRATION OF TERM. As soon as practicable on or after the expiration of the original

term or any renewal term of this Lease, the Lessee will (unless the Equipment is sold to the Lessee), at its own cost and expense, at the request of the Lessor, deliver possession of the Equipment to the Lessor upon such storage tracks to which the Lessee shall have access Lessor may reasonably designate and permit the Lessor to store the Equipment on such tracks for a period not exceeding six months and transport the same, at any time within such six-month period, to any reasonable place on the lines of railroad to which the Lessee shall have access, all as directed by the Lessor upon not less than 30 days' written notice to the Lessee; the movement and storage of the Equipment to be at the expense and risk of the Lessee. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of the Equipment, to inspect the same; provided, however, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence. The assembling, delivery, storage and transporting of the Equipment as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Equipment. If the Lessor shall elect to abandon any of the Equipment, within six months after the termination of this Lease in respect of such Equipment, it may deliver written notice to such effect to the Lessee and the Lessee shall thereupon assume and hold the Lessor harmless from all liability arising in respect of any responsibility of ownership thereof, from and after receipt of such notice, and the Lessee may thereafter dispose of such Equipment for its own account.

§14. OPINIONS OF COUNSEL. On the Closing Date (as that term is defined in the Finance Agreement dated as of December 18, 1972), the Lessee will deliver to the Lessor and the Lender counterparts, addressed to the Lessor and the Lender in scope and substance satisfactory to the Lessor and the Lender and their respective counsel of the opinion of counsel for the Lessee required by Section 5(h) of the Finance Agreement.

On the Closing Date, the Lessor will deliver to the Lessee counterparts, addressed to the Lessee, in scope and substance satisfactory to the Lessee, of the written opinions of counsel for the Lessor and counsel for the Manufacturer to the effect set forth in Sections 5(h) and 5(i) of the Finance Agreement.

§15. FEDERAL INCOME TAXES. The Lessor, as the Owner of the Equipment, shall be entitled to such deductions, credits and other benefits as are provided by the Internal Revenue Code of 1954, as amended, to an owner of property including, without

limitation, an allowance for depreciation on an accelerated basis. In that connection Lessee represents, warrants and agrees with the Lessor that the Lessee has not and will not have placed in service or used the Equipment prior to the date of delivery thereof to the Lessee pursuant to this Lease.

§16. RECORDING; EXPENSES. The Lessee shall, at its expense, prior to the delivery and acceptance of any of the Equipment, cause this Lease, the Collateral Assignment, the Security Agreement and the Sublease to be filed and recorded in accordance with Section 20c of the Interstate Commerce Act.

The Lessee will, from time to time and at its expense, do and perform any act and will execute, acknowledge and deliver any and all further instruments required by law or reasonably requested by the Lessor for the purpose of proper protection, to the satisfaction of the Lessor and its counsel, of the Lendor's and the Lessor's respective interests hereunder in the Equipment, or for the purpose of carrying out the intention of this Lease and any assignment hereof. The Lessee will promptly furnish to the Lendor and the Lessor evidence of such execution, acknowledgment and delivery.

The Lessee will pay the reasonable costs and expenses involved in the preparation and printing of this Lease. The Lessor and the Lessee will each, respectively, bear the fees and disbursements of any counsel which it may respectively retain.

§17. SATISFACTION OF UNDERTAKINGS. The obligations of Lessee under §4, paragraph 4 of §6, §7, paragraphs 5, 6 and 8 of §8 and §16 shall be deemed in all respects satisfied, so long as the Sublease is in effect, by the Sublessee's undertakings contained in §4, paragraph 4 of §6, §7, paragraphs 5, 6 and 8 of §8 and §16 of the Sublease. The Lessee shall not have any responsibility for the Sublessee's failure to perform such obligations, but if the same shall not be performed, they shall constitute the basis for an event of default hereunder pursuant to §9.

§18. INTEREST ON OVERDUE RENTALS. Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay also an amount equal to 12% per annum of the amount of the overdue rentals for the period of time during which they are overdue.

§19. NOTICES. Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when deposited in the United States certified mails, first-class postage prepaid, addressed as follows:

if to the Lessor, at One Indiana Square, Indianapolis,
Indiana 46204, Attention: Corporate Trust Department

if to the Lessee, at One Indiana Square, Indianapolis,
Indiana 46204, Attention: Corporate Trust Department

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing.

§20. SEVERABILITY; EFFECT AND MODIFICATION OF LEASE. Any provision of this Lease which is prohibited or unenforceable in any jurisdiction, shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

This Lease exclusively and completely states the rights of the Lessor and the Lessee with respect to the Equipment and supersedes all other agreements, oral or written, with respect to the Equipment. No variation or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized officers of the parties hereto.

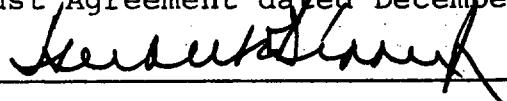
§21. EXECUTION. This Lease may be executed in several counterparts, each of which so executed shall be deemed to be an original, and in each case such counterparts together shall constitute but one and the same instrument.

Although this Lease is dated as of December 18, 1972, for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

§22. LAW GOVERNING. This Lease shall be construed in accordance with the laws of Indiana.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused these presents to be signed in their respective corporate names by duly authorized officers and their respective corporate seals to be hereunto affixed and duly attested, as of the date first above written.

THE INDIANA NATIONAL BANK,
as Owner Trustee under an Owner
Trust Agreement dated December 18, 1972

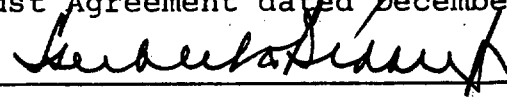
By 

[Corporate Seal]

Attest: 

LESSOR

THE INDIANA NATIONAL BANK,
as Lessee Trustee under a Lessee
Trust Agreement dated December 18, 1972

By 

[Corporate Seal]

Attest: 

LESSEE

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

On this 20th day of December, 1972, before me personally appeared Herbert D. Biddle, Jr., to me personally known, who, being by me duly sworn, says that he is a Vice President and Trust Officer of The Indiana National Bank, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Virginia Houk
Notary Public

My commission expires:

March 15, 1975

VIRGINIA HOUK, Notary Public
My Commission Expires March 15, 1975

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

On this 20th day of December, 1972, before me personally appeared Herbert D. Biddle, Jr., to me personally known, who, being by me duly sworn, says that he is a Vice President and Trust Officer of The Indiana National Bank, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Virginia Houk
Notary Public

My commission expires:

March 15, 1975

VIRGINIA HOUK, Notary Public
My Commission Expires March 15, 1975

SCHEDULE A

<u>Type</u>	<u>Manufacturer's Plant</u>	<u>Quantity</u>	<u>Road Numbers (inclusive)</u>	<u>Unit Base Price*</u>	<u>Total Base Price</u>
1500 H. P. Model SW 1500 diesel electric locomotives	McCook, Illinois	3	30 - 32	\$190,844.00	\$572,532.00

*Excludes delivery costs of each unit.